

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAVIER HERNANDEZ,

Plaintiff,

v.

CYPRESS PROPERTY & CASUALTY
INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. 4:24-cv-03163
JURY

**JOINT DISCOVERY/CASE MANAGEMENT PLAN UNDER RULE 26(F) FEDERAL
RULES OF CIVIL PROCEDURE**

1. State where and when the meeting of the parties required by Rule 26(f) was held and identify the counsel who attended for each party.

Donald Green for Plaintiff Javier Hernandez and Kolby Keller for Defendant Cypress Property & Casualty Insurance Company communicated via telephone on October 18, 2024. Moreover, Mr. Green and Mr. Keller communicated by email on November 5, 2024.

2. List the cases related to this one that are pending in any state or federal court with the case number and court.

None.

3. **Briefly** describe what this case is about.

This case involves an insurance claim concerning alleged property damage to Plaintiff's roof as a result of a windstorm. Plaintiff reported the claim to Defendant. After investigating the claim, Defendant investigated the claim and made its coverage decision on Plaintiff's claim. Plaintiff disagreed with Defendant's decision to deny the claim and did not believe that Defendant had properly investigated the claim. As such, Plaintiff now brings claims against Defendant for Breach of Contract, Breach of Duty of Good Faith and Dealing, and violations of the Texas Insurance Code.

4. Specify the allegation of federal jurisdiction.

The amount in controversy exceeds \$75,000 when factoring in potential bad faith damages and statutory penalties and interest, and the parties are diverse. 28 U.S.C. § 1332 and 28 U.S.C. § 1391(b).

5. Name the parties who disagree and the reasons.

None.

6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

None

7. List anticipated interventions.

None.

8. Describe class-action issues.

None.

9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

The Parties will make their initial disclosures in accordance with the Federal Rules of Civil Procedure and this Court's scheduling order.

10. Describe the proposed agreed discovery plan, including:

A. Responses to all the matters raised in Rule 26(f):

None.

B. When and to whom the plaintiff anticipates it may send interrogatories:

Plaintiff will serve Defendant with interrogatories during the applicable discovery period. If additional interrogatories are needed Plaintiff will serve the additional discovery at least 30 days before the close of the discovery period.

C. When and to whom the defendant anticipates it may send interrogatories:

Defendant will serve Plaintiff with interrogatories during the applicable discovery period. If additional interrogatories are needed Defendant will serve the additional discovery at least 30 days before the close of the discovery period.

D. Of Whom and by when the plaintiff anticipates taking oral depositions:

Plaintiff intends to depose the adjuster(s) who inspected the property and/or investigated the claim as well as Defendant's corporate representative at least 30 days before the end of the discovery period.

E. Of Whom and by when the defendant anticipates taking oral depositions:

Defendant intends to take the depositions of Plaintiff and Plaintiff's designated expert witnesses or other fact witnesses at least 30 days before the end of the discovery period.

F. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports:

Plaintiff: April 23, 2025

Defendant: May 23, 2025

G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date:

Plaintiff anticipates taking the deposition of any experts designated by Defendant prior to the conclusion of the discovery period.

H. List expert depositions the opposing party anticipates taking and their anticipated completion date:

Defendant anticipates taking the depositions of any experts designated by Plaintiff at least 30 days before the end of the discovery period.

11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.

The Parties agree.

12. Specify the discovery beyond initial disclosures that has been undertaken to date.

The Parties have not yet engaged in additional discovery.

13. State the date the planned discovery can reasonably be completed.

July 18, 2025.

- 14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.**

The Parties agree mediation would bring a prompt settlement or resolution of the case and have agreed to mediate the case following additional discovery.

- 15. Describe what each party has done or agreed to do to bring about a prompt resolution.**

The Parties have agreed to negotiate informally and participate in mediation.

- 16. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable, and state when such a technique may be effectively used in this case.**

The Parties agree mediation would bring a prompt settlement or resolution of the case and have agreed to mediate the case following initial discovery.

- 17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.**

The Parties do not consent to the magistrate.

- 18. State whether a jury demand has been made and if it was made on time.**

The Parties have demanded a jury.

- 19. Specify the number of hours it will take to present the evidence in this case.**

The Parties anticipate that this case can be resolved with three to four days' trial time.

- 20. List pending motions that could be ruled on at the initial pretrial and scheduling conference.**

There are no motions currently pending before the Court.

- 21. List other motions pending.**

None.

- 22. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.**

None.

23. List the names, bar numbers, address and telephone numbers of all counsel.

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November 5, 2024

Date

/s/ Donald C. Green II (w/permission)

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November 5, 2024

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/s/ Kolby J. Keller

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